

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MICHAEL A. DEMUTH,

Plaintiff,

-v-

3:18-CV-946
(DNH/DEP)

THE PEOPLE OF THE STATE OF NEW YORK;
JOSEPH MCBRIDE, District Attorney; LAURA
PARKER, Assistant District Attorney; and
MICHAEL FARRERSEE, Assistant District
Attorney,

Defendants.

APPEARANCES:

MICHAEL A. DEMUTH
Plaintiff pro se
642 New Virginia Road
Oxford, NY 13830

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Michael A. Demuth brought this civil complaint under both 42 U.S.C. § 1983 and 28 U.S.C. § 2254. On August 31, 2018, the Honorable David E. Peebles, United States Magistrate Judge, advised by Report-Recommendation that the complaint be dismissed in its entirety but that plaintiff be granted an opportunity to replead. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C.

§ 636(b)(1).

Therefore, it is


ORDERED that

1. The complaint is DISMISSED WITHOUT PREJUDICE and plaintiff is given an opportunity to amend his complaint within thirty (30) days of the date of this Decision and Order to properly present the facts which would support his claim for entitlement to relief;

2. If plaintiff files a timely amended complaint, it be forwarded to the Magistrate Judge for review; and

3. If plaintiff fails to file an amended complaint within thirty (30) days of the date of this Decision and Order, the complaint will be dismissed in its entirety and the case closed.

IT IS SO ORDERED.


United States District Judge

Dated: February 5, 2019
Utica, New York.